IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 17861 of 2004

Between:

Tadepalli Sithapathi, S/o T.Adiseshaiah,
R/o H.No.1-36-11, 2nd Lane, Maruthinagar, Guntur

..... PETITIONER

AND

The District Judge, District Court, at Guntur

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ, Order or direction particularly one in the nature of Mandamus declaring all the proceedings leading upto and the including proceedings Dated 24-09-2004 communicated under Dis.No.6514, dated 24-09-2004 of the respondent as arbitrary, illegal and void and consequently nullify the same.

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondent : SMT.M.BHASKARA LAKSHMI (SC FOR APHC) FOR RMAPP.

The Court made the following :

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No. 17861 of 2004

ORAL ORDER: (per Sri Devinder Gupta, CJ)

Petitioner who is being proceeded against departmentally for number of charges has questioned the order passed by the disciplinary authority rejecting his request that since the proceedings in criminal case are pending against him in Crime No.158 of 2003 on the file of Nagarampalem, L&O.P.S., departmental proceedings be stayed.

Petitioner's request for staying the proceedings was negatived by the disciplinary

authority, namely, the District Judge, Guntur by placing reliance upon a decision of the Supreme Court in KENDRIYA VIDYALAYA SANGATHAN AND OTHERS vs. T. SRINIVAS & OTHERS ().

We have heard the learned counsel for the petitioner and gone through the record.

The principles are now well settled on the question whether departmental proceedings can simultaneously proceed during the pendency of criminal proceedings, which were reiterated by the Supreme Court in CAPT.M. PAUL ANTHONY vs. BHARAT GOLD MINES LTD., & OTHERS (), wherein it was held:

> "(i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately;
>
> (ii) if the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and facts, it is desirable to stay the departmental proceedings till conclusion of the criminal case;
>
> iii. whether the nature of charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case will depend upon the nature of the offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet;
>
> iv. facts mentioned at (ii) and (iii) above cannot be considered in isolation to stay departmental proceedings but due regard has to be given to the fact that departmental proceedings cannot be unduly delayed;
>
> v. if the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of pendency of criminal case can be resumed and proceeded with, so as to conclude them at an early date. The purpose is that if the employee is found not guilty, his honour may be vindicated and in case he is found guilty administration may get rid of him at the earliest. ''

We have been taken through the contents of the F.I.R. No. 158 of 2000, dated 28.8.2002 and also the Articles of charges framed against the petitioner. It is not

disputed by the learned counsel for the petitioner that facts and evidence in so far as departmental proceedings are not identical. We may refer to one of the Articles of Charges framed, which says that petitioner while working as Accounts Clerk in the Court of Principal Senior Civil Judge's Court, Guntur from 1993-1999 had received Money Orders on the dates noted against each in the list of Money Orders enclosed thereto willfully and intentionally failed to enter in the cash book and ledger which were required to be maintained and failed to account for the said amounts to the tune of Rs.26,502/- and thus dishonestly misappropriated the amounts aforesaid.

This particular charge does not find mention in the F.I.R. The criminal case is still under investigation. Charge sheet has not yet been filed in the criminal case; whereas in the departmental proceedings charges have been framed. When departmental proceedings are not based upon identical or similar set of facts, the bar will not apply since the Supreme Court has reiterated in M. PAUL ANTHONY's case (cited supra-2) that departmental proceedings and the criminal proceedings can proceed simultaneously, though separately.

Thus, the disciplinary authority, on application of mind with respect to the charges framed against the petitioner in the departmental proceedings and considering the F.I.R., rightly concluded that there is no justification in staying the departmental proceedings.

The writ petition is accordingly dismissed.

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DEVINDER GUPTA, CJ

Date: 6th October, 2004

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C.V.RAMULU,J

Pnb

To

1. The District Judge, District Court, at Guntur
2. Two C.D. Copies